

REMARKS/ARGUMENTS

The claims are 3-16, 20-40, 42-47, 50-55, 58-59, 61-65, and 68-98. Independent claim 1 has been canceled in favor of new, independent claim 86.

Claims 17-19, 41, 48-49, 56-57, 60 and 66-67 have been canceled. Claim 2 was canceled previously in an earlier amendment.

Independent claim 87 has been added containing subject matter found, *inter alia*, previously in claim 32. Claims 24, 30, 31, 32, 45, 63, 64, and 65 have been amended to depend directly or indirectly on claim 87.

New claims 88-98 have been added based on subject matter from claims 35, 19, 28, 22, 70, 81, 82, 35, 28, 67, and 35, respectively, of the Third Preliminary Amendment filed November 23, 2007.

Claims 3-16, 20-40, 42-47, 50-55, 58-59, 61-65, and 68-85 have been amended to improve their form or to better define the

invention.

The specification has been amended to add headings, to define "specimen" as used in amended claims 3 and 51, and to define conventional methods of authentication.

Support for the amendments to the claims may be found, *inter alia*, in claims 1 and 3-85.

Reconsideration is expressly requested.

In the October 27, 2009 non-final Office Action, the Examiner suggested that the specification be amended to add headings. In response, Applicant has amended the specification to add headings in accordance with 37 C.F.R. 1.77(b).

Claims 1 and 3-85 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Examiner took the position that the claims were addressed to a disproportionately large number of possible methods and to a large number of possible permutations. According to the

Examiner, the specification failed to address every possible combination and therefore failed to enable the claims. The Examiner also took the position that the invention of the claims was not proven to be remotely plausible. According to the Examiner, the features suggested in FIGS. 1-62 of Applicant's disclosure were highly complex and that in view of the state of the art it would be impossible to acquire information on the nanometer scale while a subject is moving.

In response, Applicant has amended the claims to remove the use of the "and/or" conjunction, which it is respectfully submitted addresses the Examiner's rejection based on the large number of permutations and possible combinations. It is respectfully submitted that the specification enables one skilled in the art to make and/or use the invention of claims 3-16, 20-40, 42-47, 50-55, 58-59, 61-65, and 68-85 as amended and the invention of new claims 86-98, as the claims are better defined to identify which combinations of steps are part of the claims.

With respect to the Examiner's rejection of the claims as being impossible to gather information on the nanometer scale while a subject is moving, it is respectfully submitted that Applicant's specification sufficiently teaches one of ordinary

skill in the art that the gathering of information from a close range will allow more precise information to be gathered and provide a more effective method of authentication, identification, or verification than the gathering of information from a distant range provides. See the third full paragraph of page 5 of the specification and the first full paragraph of page 9 of the specification. The third full paragraph of page 5 of the specification teaches that "an accuracy of  $\pm 15$  micrometers stays realistic even during quick scans of more than several centimeters per second." One of skill in the art knows that information can be gathered from a fixated sample in a range of nanometers, for example 100 nanometers. Information can be gathered from a non-fixated sample in a range of micrometers, for example 10 and primarily 100 microns.

Accordingly, it is respectfully submitted that one of ordinary skill in the art would not be required to perform any undue experimentation to practice the claimed invention, but would understand that information gathered at a closer range for a longer period of time will provide better data for comparison than information gathered at a longer range over a shorter period of time will provide.

Furthermore, it is respectfully submitted that Applicant's new claims and Applicant's claims as amended do not require information to be gathered on a nanometer scale from a moving object.

Accordingly, it is respectfully submitted that the Applicant's invention according to the new claims and the amended claims fulfill the requirements of enabling those skilled in the art to make and use the claimed invention under 35 U.S.C. § 112, first paragraph, and it is respectfully requested that the Examiner's rejections of the claims on this basis be withdrawn.

Claims 1 and 3-85 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for using terms such as "etc.", "or the like", "e.g.", "and/or" and "for example", for being in narrative form and for not clearly and positively specifying the structure of the invention. In response, Applicant has amended the claims, canceled some claims, and has added new claims all without the terms "etc.", "or the like", "e.g.", "and/or" and "for example", and all having improved form which positively and clearly identify the steps and structure of the invention.

Accordingly, it is respectfully submitted that the claims fulfill the requirements of 35 U.S.C. § 112, second paragraph, and it is respectfully requested that the Examiner's rejection to the claims on this basis be withdrawn.

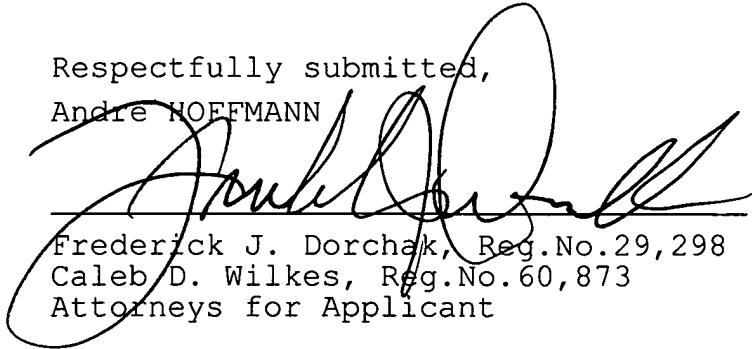
It is respectfully submitted, moreover, that the new claims and the amended claims are ready for examination on the merits.

In summary, claims 3-16, 20-40, 42-47, 50-55, 58-59, 61-65, and 68-98 have been amended, claims 1, 17-19, 41, 48-49, 56-57, 60 and 66-67 have been canceled, and new claims 86-98 have been added. The specification has also been amended. In view of the foregoing it is respectfully requested that the Examiner proceed with an examination on the merits of the invention as claimed.

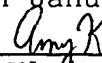
Respectfully submitted,  
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I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 26, 2010.

  
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